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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Klaus Stoeckl

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DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON, DC 20005

EXAMINER

YUN, JURIE

ART UNIT

PAPER NUMBER

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/531,985	Applicant(s) STOECKL, KLAUS	
	Examiner Jurie Yun	Art Unit 2882	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,7,8 and 10-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 and 8 is/are allowed.
- 6) ☒ Claim(s) 1,2 and 10-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/9/08 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molteni et al. (USPN 6,424,694 B1) in view of Schantz (USPN 2,123,210) and Arai et al. (USPN 6,118,842).

4. With respect to claim 1, Molteni et al. disclose a bite device (Fig. 7, 14) for correct positioning of a patient for taking a radiograph with a panoramic X-ray device (12a), comprising a holding member (11); a plate (Fig. 8, 13) pivotally attached to said holding member (see Figs. 8a & 8b), said plate including a bite piece (14) on which the patient bites.

Molteni et al. disclose indicia (100) used to help align any of the vernier adjustments taught (column 5, lines 45-47), but do not specifically disclose the indicia is used for detecting the angle of deflection alpha between said plate and said holding member. Schantz discloses means (Fig. 4) for detecting the angle of deflection alpha between said plate and said holding member (column 1, lines 1-52 & column 2, lines 31-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Molteni et al. to provide means for detecting the angle of deflection alpha between said plate and said holding member, in order to produce distortion free images and to enable reproducing the images taken from the same angle in the future for comparison purposes, as taught by Schantz.

Molteni et al./Schantz do not disclose driving means for vertically adjusting said holding member and said plate. Arai et al. disclose driving means for vertically adjusting said holding member (column 7, line 53 - column 8, line 6 & column 16, lines 26-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Molteni et al./Schantz to have driving means for vertically adjusting said holding member, which vertical adjustment would vertically adjust said plate, to ensure accurate positioning and thus better imaging.

5. With respect to claim 2, Molteni et al. as modified by Schantz disclose said means for detecting the angle of deflection alpha comprise one or more sensors (Schantz - Fig. 4).

6. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Molteni et al. (USPN 6,424,694 B1) in view of Schantz (USPN 2,123,210) and Arai et al. (USPN 6,118,842) as applied to claim 1 above, and further in view of Levy (USPN 5,327,477).

7. With respect to claim 17, Molteni et al. as modified by Schantz and Arai et al. do not disclose said bite piece includes a replaceable protective sheath. Levy discloses this (column 8, lines 1-2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Molteni et al./Schantz/Arai et al. to have the bite piece include a replaceable protective sheath, to protect the patient, as taught by Levy.

8. Claims 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molteni et al. (USPN 6,424,694 B1) in view of Schantz (USPN 2,123,210) and Garcia (US 2002/0181658 A1).

9. With respect to claim 16, Molteni et al. disclose a bite device (Fig. 7, 14) for correct positioning of a patient for taking a radiograph with a panoramic X-ray device (12a), comprising a holding member (11); a plate (Fig. 8, 13) pivotally attached to said holding member (see Figs. 8a & 8b), said plate including a bite piece (14) on which the patient bites.

Molteni et al. disclose indicia (100) used to help align any of the vernier adjustments taught (column 5, lines 45-47), but do not specifically disclose the indicia is used for detecting the angle of deflection alpha between said plate and said holding member. Schantz discloses means (Fig. 4) for detecting the angle of deflection alpha

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between said plate and said holding member (column 1, lines 1-52 & column 2, lines 31-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Molteni et al. to provide means for detecting the angle of deflection α between said plate and said holding member, in order to produce distortion free images and to enable reproducing the images taken from the same angle in the future for comparison purposes, as taught by Schantz.

Molteni et al. do not disclose said bite piece includes a wedge-shape tapered projection and a complementary recess on opposite sides thereof for releasably fitting said bite piece to said plate. Garcia discloses a bite piece includes adhesive on opposite sides thereof for releasably fitting said bite piece to said plate by folding the foam over the edge (paragraph 0024). It is obvious to one of ordinary skill in the art that releasably fitting a folded piece by using a wedge-shape tapered projection and a complementary recess on opposite sides thereof is equivalent functionally to using adhesive on opposite sides thereof for releasable fit. Both perform the same function. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Molteni et al. to have the bite piece include a wedge-shape tapered projection and a complementary recess on opposite sides thereof for releasably fitting said bite piece to said plate, as a matter of design choice to provide for easy assembly.

10. With respect to claim 10, Molteni et al. disclose said bite piece comprises a soft material (column 3, lines 26-42).

11. With respect to claim 11, Molteni et al. disclose said bite piece (14) consists of a substantially radiolucent material (column 3, lines 26-42).

12. With respect to claim 12, Garcia discloses said bite piece consists of closed-cell ethylene foam (paragraph 0021).

13. With respect to claim 13, Molteni et al. disclose said bite piece (14) occupies an angle beta of the dental arch of the patient which ranges from 20 degrees to 40 degrees.

14. With respect to claim 14, Molteni et al. disclose said bite piece has, on an upper surface and on an undersurface respectively, a bite groove for the accommodation of a dental arch of upper and lower jaws of the patient (see Fig. 5a).

15. With respect to claim 15, Garcia discloses said bite piece is a unitary piece and is foldable along a folding edge (paragraph 0024).

Allowable Subject Matter

16. Claims 7 and 8 are allowed.

17. The following is an examiner's statement of reasons for allowance:

Prior art fails to disclose a bite device for correct positioning of a patient for taking a radiograph with a panoramic X-ray device, wherein said detecting means including a rail which is connected to said plate and disposed in said holding member and movable upwardly and downwardly, said rail including an opening and detector means for detecting the opening and thus the position of the rail and the angle of deflection, as claimed in claim 7. Claim 8 is allowed due to its dependency on claim 7.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

18. Applicant's arguments filed 4/9/08 have been fully considered but they are not persuasive. Applicant argues:

With respect to claim 1 and dependent claim 2, it is asserted that these claims are patentable insofar as it would not be obvious to somehow utilize the disc-pointer system (21,23) of Schantz in Molteni et al. because in Schantz it is the film support frame which is pivoted, not the plate which supports the bite piece.

The Examiner respectfully disagrees. Schantz was only relied upon for the teaching of means for indicating an angular position. It is obvious also that although Molteni et al. do not specifically disclose this, it is provided. Molteni et al. disclose (column 5, lines 45-47):

Indicia 100 may be used on apparatus 10 to help align any of the vernier adjustments discussed hereinabove.

Figures 8a and 8b show the plate being pivoted with respect to the holder. Schantz specifically teaches means and desirability for detecting an angular position. It is not the exact means that Schantz teaches for obtaining angular position, but the fact that obtaining angular position is desirable. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply this teaching of detecting an angular position, to the positioning device of Molteni et al., in order to be able to reproduce the images taken in the same position in the future. This is only possible by knowing the angular position, as taught by Schantz.

Conclusion

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jurie Yun whose telephone number is 571 272-2497. The examiner can normally be reached on Monday-Friday 8:30-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Glick can be reached on 571 272-2490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jurie Yun/
Primary Examiner, Art Unit 2882

April 23, 2008